

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Margaret Miller,

Plaintiff,

v.

My Tech Gurus, Inc.,

Defendant.

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:
: Civil Action No.: 4:13-cv-00171
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:
: **COMPLAINT**
: **JURY**
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For this Complaint, the Plaintiff, Margaret Miller, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. This Court has original jurisdiction over Plaintiff's TCPA claims. Mims v. Arrow Fin. Serv., LLC, 132 S.Ct. 740 (2012).
3. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

5. The Plaintiff, Margaret Miller ("Plaintiff"), is an adult individual residing in Houston, Texas.
6. The Defendant, My Tech Gurus, Inc. ("MTG"), is a Connecticut business entity with an address of 500 Putnam Avenue, Suite 400, Greenwich, Connecticut 06830.

FACTS

7. On December 15, 2012, Plaintiff entered into an agreement with Defendant for technical support services.

8. Later that same day, Plaintiff terminated her business relationship with Defendant and withdrew the payment she made.

9. That same day, Defendant started contacting Plaintiff by placing two to three calls daily to Plaintiff's home telephone.

10. Defendant called Plaintiff using an automated telephone dialer system with an artificial or prerecorded voice (hereafter "Robocalls").

11. Each of Defendant's Robocalls started with a period of silence that lasted for a few seconds.

12. Only after these periods of silence, did a live representative come on the line to speak with Plaintiff.

13. During conversations, Defendant informed Plaintiff that her computer was sending Defendant messages about required repair needs.

14. Plaintiff, however, during the initial phone conversation and all those thereafter, informed Defendant that she no longer required Defendant's services and requested that Defendant stop calling her home telephone.

15. Despite these repeated requests, Defendant continued to hound Plaintiff with Robocalls to her home telephone.

A. Plaintiff Suffered Actual Damages

16. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

17. As a direct consequence of the Defendant's acts, practices and conduct, the Plaintiff suffered and continues to suffer from anger and frustration.

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

18. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

19. Defendant contacted Plaintiff using an automatic telephone dialing system and/or by using a prerecorded or artificial message on a residential telephone of 47 U.S.C. § 227(b)(1)(A)(iii).

20. Plaintiff either never provided express consent to Defendant or the Creditor to call her residential telephone number, or Plaintiff revoked her consent to be contacted by Defendant on her residential telephone by her repeated demands to cease calling her residential telephone.

21. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

22. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, *et. seq.*

23. As a result of each of Defendant's negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

24. As a result of each of Defendant's knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the

Defendant:

1. Statutory damages for each violation, pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Attorney's costs and fees; and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 24, 2013

Respectfully submitted,

By: /s/ Jody B. Burton

Jody B. Burton, Esq.
CT Bar # 422773
LEMBERG & ASSOCIATES L.L.C.
A Connecticut Law Firm
1100 Summer Street, 3rd Floor
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424